

Service Decision May 26, 2009

The Service has determined that the following action is needed to avoid jeopardizing delta smelt from project operations consistent with the biological opinion.

The OMR flows shall be no more negative than -1,500 cfs on a 14-day running average. Simultaneously, OMR flow shall be no more negative than -1,875 cfs on a 5-day average. The combined May salvage is expected to reach the incidental take concern level of 299 today. These flows are needed to avoid jeopardizing delta smelt for the following reasons:

1) Salvage has decreased at the CVP over the past few days however fish were salvaged there again yesterday (4 on 5/22, 0 on 5/23, 0 on 5/24, 0 on 5/25, and 4 on 5/26). Additionally, salvage has begun and is currently increasing at the SWP with 11 delta smelt salvaged on May 24, 40 delta smelt on May 25, and 62 delta smelt on May 26 (expanded salvage). The combined salvage as of May 26 is 281. See Figure 1, below.

The Service is very concerned that salvage will exceed the May Concern Level of 299 delta smelt as identified in the biological opinion today, and at current rates, may exceed the May cumulative take limit of 449 fish. Current OMR flows are -1,828 cfs OMR 14-day running average and -2,235 cfs OMR 5-day running average as of May 26. Delta smelt are continuing to reach a size where they are more effectively detected at the fish salvage facilities resulting in greater efficiency in salvage. Also, the end of May is historically a period when high numbers of delta smelt become entrained at the export facilities.

A flow of -1,500 cfs using the normal averaging rules would be protective of delta smelt in the South and Central Delta but would also minimize salvage events at the facilities. This reflects current conditions and the Service's concern that entrainment may be occurring and lead to salvage spikes in the near-term. The pattern of increasing salvage at the SWP is very concerning, and reduced flows relative to recent conditions are required immediately. These considerations lead to the specific OMR requirement herein.

2) The distribution of delta smelt continues to be a concern, since in the most recent 20 mm survey, delta smelt was caught in the Central Delta. These catches, along with the salvage information indicate that there are delta smelt that are subject to entrainment at the facilities or which may not be able to leave the South or Central Delta due to OMR flows.

3) The numbers of delta smelt caught in the delta sampling efforts remain low. The Fall Midwater Trawl delta smelt abundance index in 2008 was the lowest ever. Concern remains over large numbers of a small total population becoming entrained at the facilities.

4) Water temperatures in the Delta are currently at 20.5 degrees C (three station average of Mossdale, Rio Vista and Antioch). Any spawning that is currently occurring is not likely to result in a viable cohort of delta smelt. As temperatures increase, delta smelt move out of the South and Central Delta and may become subject to entrainment. The current temperature in Clifton Court Forebay is 22.3 degrees C. Once temperatures at Clifton Court Forebay reach 25 degrees C, the actions under the RPA will end.

The Service believes, based on all of the available information that setting OMR flows, as described above, is needed to avoid jeopardizing the delta smelt from CVP and SWP operations. The Service acknowledges that there may be socio-economic impacts in the CVP service area in the event that operating to the OMR target results in less exports than may otherwise occur in this third year of drought.

For more details, see the SWG recommendation document.

